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SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

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

Registrar: Mr. Lovemore G. Munlo SC

Date: 7th of February 2007

PROSECUTOR **Against** **ISSA HASSAN SESAY**
MORRIS KALLON
AUGUSTINE GBAO
(Case No. SCSL-04-15-T)

Public Document

**DECISION AND ORDER ON DEFENCE APPLICATIONS FOR AN ADJOURNMENT OF
16TH OF FEBRUARY DEADLINE FOR FILING OF DEFENCE MATERIAL**

Office of the Prosecutor:

Stephen Rapp
James C. Johnson
Peter Harrison

Defence Counsel for Issa Hassan Sesay:

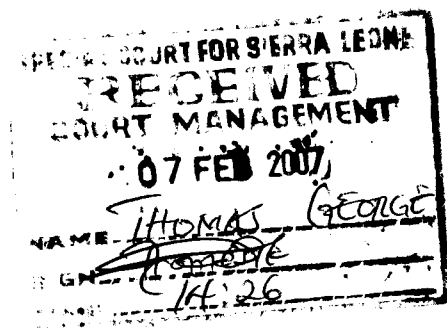
Wayne Jordash
Sareta Ashraph

Defence Counsel for Morris Kallon:

Shekou Touray
Charles Taku
Melron Nicol-Wilson

Court Appointed Counsel for Augustine Gbao:

Andreas O'Shea
John Cammegh



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

RECALLING its Scheduling Order Concerning the Preparation and the Commencement of the Defence Case, issued on 30th of October 2006, (“Scheduling Order “)¹ ordering each Defence Team to file various Defence materials (“Materials”) by the 16th of February 2007”), in preparation for the commencement of the Defence case;

SEIZED of the Defence Application for an Adjournment of the 16th February 2007 Filing (“Sesay Application”, filed by the Defence Counsel for the First Accused, Issa Hassan Sesay, (“Sesay Defence”), on the 24th of January 2007, requesting that this deadline be extended until the 5th of March 2007;²

RECALLING its Order for Expedited Filings on Defence Application for Adjournment of the 16th of February 2007 Filing (“Order”), issued on the 25th of January 2007, in which the Chamber requested that responses to the Sesay Application be filed by the 29th of January 2007 and that any reply from the Sesay Defence to these responses be filed by the 31st of January 2007;³

SEIZED of the Kallon Defence Application to Vary the 16 February 2007 Filing Date, (“Kallon Application”), filed by the Defence Counsel for the Second Accused, Morris Kallon (“Kallon Defence”), on the 28th of January 2007, in which he also requests that the deadline for the filing of its Materials as set out in the Scheduling Order be extended until the 5th of March 2007;⁴

NOTING the response filed by the Office of the Prosecutor (“Prosecution”), on the 29th of January 2007, objecting to the Sesay Application (“Prosecution Response”);⁵

CONSIDERING that in its Response, the Prosecution states that the Chamber should refuse the extension requested by the Sesay Defence, but that if it is persuaded to provide relief the following

¹ *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Scheduling Order Concerning the Preparation and the Commencement of the Defence Case, (TC), 30th of October 2006, (“Scheduling Order”).

² *Prosecutor v Sesay*, SCSL-04-15-T, Defence Application for an Adjournment of the 16th February 2007 Filing, (TC), 24th of January 2007, (“Sesay Application”).

³ *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Order for Expedited Filings on Defence Application for Adjournment of the 16th of February 2007 Filing, 25th of January 2007.

⁴ *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Kallon Defence Application to Vary the 16 February 2007 Filing Date, (TC), 28th of January 2007, (“Kallon Application”).

⁵ *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Prosecutor’s Response to Defence Application for an Adjournment of the 16th February 2007 Filing, (TC), 29 January 2007, (“Prosecution Response”).

information should still be provided by the original date of 16th of February 2007: whether the Accused will testify; information regarding expert witnesses; the list of common witnesses and the list of Defence Exhibits;⁶

NOTING the Reply filed by the Sesay Defence, on the 31st of January 2007, to the Prosecution's Response ("Sesay Reply");⁷

CONSIDERING that in its Sesay Reply, the Sesay Defence states that it will be impossible to prepare an adequate defence in a piece-meal fashion as proposed by the Prosecution;⁸

NOTING the Response filed by the Kallon Defence to the Sesay Application ("Kallon Response"), on the 28th of January 2007, supporting the Sesay Application;⁹

NOTING the Response filed by the Court Appointed Counsel for the Third Accused, Augustine Gbao ("Gbao Defence"), to the Sesay Application, on the 29th of January 2007, supporting the Sesay Application ("Gbao Response");¹⁰

SATISFIED that, in the circumstances, granting an extension until the 5th of March 2007 is in the interests of justice and will neither delay the commencement of the Defence case nor cause any undue prejudice;

CONSIDERING that the Gbao Response also seeks an extension of time to the 30th April 2007 for the filing of information regarding witnesses of fact and of an exhibit list, as well as an extension of time for the filing of material relating to experts to two months following disclosure of expert reports from the Sesay Defence and that it therefore requests relief from the Chamber which should have been done in a separate motion and not in its response to the Sesay Application, but that it is in the interests of justice for the Chamber to consider and dispose of the Gbao Response;¹¹

⁶ Prosecution Response, above n 6, para 17. In addition, the Prosecution proposes that the witness list and chart relating the evidence to the paragraphs of the Indictment should be complied with for at least 80% of the witnesses. An addendum with the remaining witnesses and chart information should be filed within two weeks of 16 February 2007

⁷ *Prosecutor v Sesay, Kallon, Gbao*, SCSL-04-15-T, Reply to the Prosecutor's Response to Defence Application for an Adjournment of the 16th February 2007 Filing, (TC), 31st of January 2007, ("Sesay Reply").

⁸ Sesay Reply, above n 7, para 9.

⁹ *Prosecutor v Sesay, Kallon, Gbao*, SCSL-04-15-T, Kallon Defence Response to the Sesay Defence Application for Adjournment of the 16 February 2007 Filing Date, (TC), 28th of January 2007, ("Kallon Response").

¹⁰ *Prosecutor v Sesay, Kallon, Gbao*, SCSL-2004-15-T, Gbao Submissions on Sesay Request for Modification of Time Limits for Filing, (TC), 29th of January 2007, ("Gbao Response").

¹¹ *Ibid*, para 7. See *Prosecutor v Sesay, Kallon and Gbao*, SCSL-04-15-T, Decision on Prosecution Request for Leave to Call Additional Witnesses and Disclose Additional Witness Statements, (TC), 11th of February 2005, paras 28-29.

CONSIDERING that, in the circumstances, if the Chamber were to grant the relief sought by the Gbao Defence, it could result in prejudice to the other parties in that they would not be in possession of all the Materials before the commencement of the Defence case;

MINDFUL of the fact that although the Prosecution has not had the opportunity to respond to the Kallon Application or the Gbao Response, the Chamber has the inherent power to regulate its own procedure in the interests of justice;

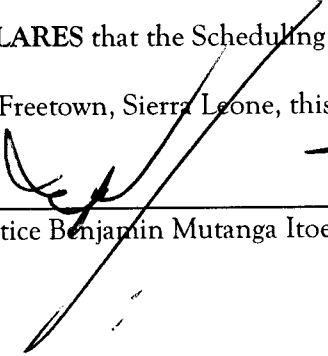
PURSUANT to Rules 7, 26bis, 54, 73, 73ter of the Rules of Procedure and Evidence

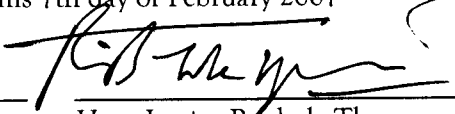
THE CHAMBER HEREBY GRANTS the Sesay Application and the Kallon Application on the grounds that it is, in the circumstances, in the interests of justice for the Defence to be afforded, within the bounds of reasonableness and fairness, sufficient and adequate time to prepare effectively their case.

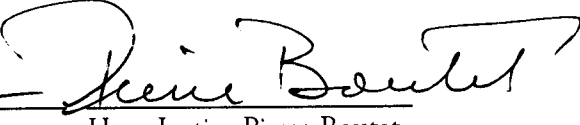
THE CHAMBER also DENIES the request made in the Gbao application and consequently ORDERS ALL Accused to file their Materials by no later than 4:00pm on the 5th of March 2007 and

DECLARES that the Scheduling Order remains in effect in all other respects.

Done at Freetown, Sierra Leone, this 7th day of February 2007


Hon. Justice Benjamin Mutanga Itoe


Hon. Justice Bankole Thompson
Presiding Judge
Trial Chamber I


Hon. Justice Pierre Boutet

