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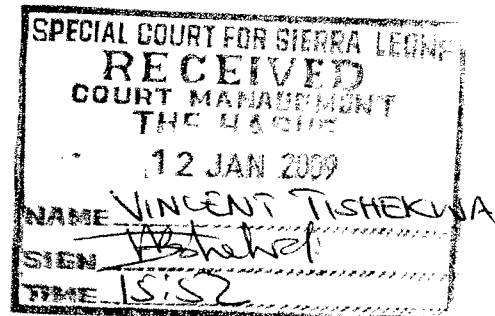
23942

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

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

Registrar: Mr. Herman von Hebel

Date filed: 12 January 2009



THE PROSECUTOR

Against

Charles Ghankay Taylor

Case No. SCSL-03-01-T

PUBLIC

PROSECUTION REPLY TO DEFENCE RESPONSE TO PROSECUTION MOTION FOR ADMISSION OF DOCUMENTS OF CERTAIN NON-GOVERNMENTAL ORGANISATIONS AND ASSOCIATED PRESS RELEASES

Office of the Prosecutor:

Ms. Brenda J. Hollis
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Counsel for the Accused:

Mr. Courtenay Griffiths Q.C.
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I. INTRODUCTION

1. The Prosecution files this Reply to the “Public Defence Response to Prosecution Motion for Admission of Documents of Certain Non-Governmental Organisations and Associated Press Releases”.¹

II. REPLY

Applicable Legal Principles

2. In its Response, the Defence incorporates by reference arguments contained in separate filings regarding the legal principles to be applied to the admission of documents.² The Prosecution has filed replies to the separate filings addressing those arguments.³ Accordingly, the Prosecution relies on and incorporates by reference its submissions made therein.
3. The Prosecution emphasizes, though, that the matter at issue is the ability of the Parties to bring relevant evidence before this Chamber. The Defence arguments contained in the Response are fundamentally flawed as they ignore the fact that two rules are used at the ICTY and ICTR for the introduction of evidence other than through live testimony – Rules 89 and 92bis.⁴ These rules are used in tandem. Nonetheless, the Defence seeks to impose on the SCSL the interpretation and use made by the ICTY and ICTR of Rule 92bis without also extending to the SCSL these tribunals’ interpretation and use of Rule 89(C).

NGO Evidence

4. In paragraphs 4 – 5 of the Response, the Defence relies upon a decision of the Trial Chamber of the ICTY in the case of *Milutinovic* in support of the proposition that in the absence of sufficient showing of reliability such evidence is inadmissible. The Defence fails to appreciate that the test for admissibility of evidence under Rule 89(C) is relevance only. Issues of reliability and probativity are properly considered by the SCSL Trial Chamber at the end of the trial “as evidence is admissible once it is shown to be relevant:

¹ *Prosecutor v. Taylor*, SCSL-03-01-T-695, “Public Defence Response to Prosecution Motion for Admission of Documents of Certain Non-Governmental Organisations and Associated Press Releases”, 5 January 2009 (“**Response**”).

² Response, para. 3.

³ *Prosecutor v. Taylor*, SCSL-03-01-T-670, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies,” 17 November 2008 (“**UN Documents Reply**”).

⁴ In the context of the current issue, Rules 92ter and 92quater are not relevant and so are not discussed.

the question of its reliability is determined thereafter and is not a condition for its admission”.⁵

5. At paragraph 6 of the Response, the Defence contends that “the NGO Documents were created with the purpose of highlighting human rights abuses for the individual needs of the NGOs and not for creating an objective factual record of what actually happened at the time of the event that is being depicted”. However, these two aims are not mutually exclusive, nor, even under the interpretation of the ICTY Rules, would this render the document inadmissible. That jurisprudence speaks of the admissibility of hearsay evidence under Rule 89(C) where that evidence was not prepared for the purposes of legal proceedings.⁶ Further, in an effort to support their contention the Defence highlights the mission statement of “Human Rights Watch”; however, in so doing, the Defence inappropriately omits from the passage quoted reference to Human Rights Watch’s “rigorous, objective investigations”;⁷ which is supported in substance by Human Rights Watch’s methodology as explained both generally⁸ and specifically in those reports submitted in the Motion.⁹
6. At paragraph 7 of the Response, the Defence further claims that the NGO Documents should be viewed as expert evidence and the authors as expert witnesses. At the same time, the Defence also reiterates their previous objections to Corrine Dufka as an expert witness and her evidence as expert evidence.¹⁰ This approach is logically flawed and should be dismissed. The Defence cannot argue that NGO Documents both are and are

⁵ *Prosecutor v. Norman et al.*, SCSL-04-14-T, “Fofana – Appeal against Decision Refusing Bail”, 11 March 2005, para. 26 (“**Fofana Bail Appeals Decision**”).

⁶ *Prosecutor v. Galic*, IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92bis(C), 7 June 2002, para.9, where the Appeal Chamber observe that “Rule 92bis has no effect upon hearsay material which was not prepared for the purposes of legal proceedings”.

⁷ Response, para 6 refers to the website: <http://hrw.org/en/about>, where the mission statement provides: “Human Rights Watch is one of the world’s leading independent organizations dedicated to defending and protecting human rights. By focusing international attention where human rights are violated, we give voice to the oppressed and hold oppressors accountable for their crimes. Our rigorous, objective investigations and strategic, targeted advocacy build intense pressure for action and raise the cost of human rights abuse. For 30 years, Human Rights Watch has worked tenaciously to lay the legal and moral groundwork for deep-rooted change and has fought to bring greater justice and security to people around the world”.

⁸ See website: <http://www.hrw.org/en/node/75141> “Our Research Methodology”, in particular, those sections on “interview research”.

⁹ See for example, the document at tab 5 of Annex B to the Motion which has a section entitled “methodology” (pg 23124) and the document referred to at tabs 1 – 3 referring to the acknowledgement (pgs 23124 and pg 23004). See also the comments made by Corrine Dufka about the methodology used by Human Rights Watch at Taylor Trial Transcript, 21 and 22 January 2008.

¹⁰ Response, para. 6 at footnote 9, in which the Defence specifically remind the Chamber of their objection to the admission of Corrine Dufka’s documents and to her proffered status as an expert witness.

not expert evidence and that the authors' of such documents' both are and are not expert witnesses. Furthermore, the Defence argument flies in the face of the clear finding of the Trial Chamber that Corrine Dufka could not be properly characterised as an expert¹¹ and is surprising in light of the view expressed by the Trial Chamber that "it does not require expert opinion in order to appreciate the contents of publicly distributed human rights reports or statements made by victims or factual witnesses".¹² Further, it is axiomatic that an expert witness may refer to documents from Non-Governmental Organizations without rendering those documents themselves expert evidence.

Admission under Rules 89(C) & 92bis

Acts and conduct of the Accused

7. In paragraph 10 of the Response, the Defence claims that the documents go "directly to the acts and conduct of the Accused" and "that the documents in many instances speak directly about the Accused and his involvement in the Sierra Leonean conflict". The Defence contends that "it would be highly prejudicial for the Documents to be admitted into evidence without a witness who could speak to their contents".¹³ The Prosecution has acknowledged at paragraph 16 of the Motion and in the Annex to that Motion that certain of the documents do contain evidence which might be considered acts and conduct of the Accused as defined by the jurisprudence for Rule 92bis. However, that fact does not dictate that the documents are inadmissible under Rule 89(C) in the absence of a witness. The Trial Chamber has previously ruled on precisely this objection; observing that "the Trial Chamber has a discretion under Rule 89(C) to admit any relevant evidence. Accordingly, the Trial Chamber holds that the inability of the Defence to cross-examine such witnesses is a matter that goes to the weight of the evidence, not its admissibility".¹⁴

Evidence going to a critical element of the Prosecution case

8. At paragraphs 12 through 15 of the Response, the Defence claims that the documents contain evidence that is material to actions of subordinates and which goes to a "critical element" of the Prosecution's case and is therefore proximate to the accused. The

¹¹ *Prosecutor v Taylor*, SCSL-03-1-T, "Decision on Defence Application to Exclude the Evidence of Proposed Prosecution Expert Witness Corrine Dufka or, in the Alternative, to Limit its Scope and on Urgent Prosecution Request for a Decision", 19 June 2008, ("**Dufka Decision**") esp. at para 13.

¹² *Ibid.*, para 20.

¹³ Response, para. 11.

¹⁴ *Prosecutor v Taylor*, SCSL-03-1-T, "Dufka Decision, paras 24-25.

Defence argues that this evidence should not be admitted without giving the Defence an opportunity for cross-examination. The Prosecution has replied to this argument in the context of a similar reply and, therefore, relies on and incorporates by reference its submissions made therein at paragraphs 5 – 8.¹⁵ The Prosecution further relies on paragraph 7, above.

9. Further, the Defence claim that the documents contain evidence that goes to a “critical element” of the Prosecution’s case is entirely contradicted by what is claimed in annex B to the Response, namely that every document is “Not sufficiently significant”. The documents cannot be both critical and not significant.

Documents may be tendered absent a witness

10. The Defence argument that a witness is required to speak to the contents and relevance of the Documents is without merit.¹⁶ The Prosecution has replied to this argument in the context of a similar reply and, therefore, relies on and incorporates by reference its submissions made therein at paragraph 5, substituting any reference therein to “RUF Documents” with a reference to “Non-Governmental Documents and Associated Press Releases”.¹⁷ The Documents are either relevant on their face or are generally relevant as highlighted in annex A to the Motion.¹⁸ The parties will have every opportunity to address the significance of the documents and the weight that should be afforded to them and the Trial Chamber is perfectly able to determine the significance and weight, based on the content of the documents themselves in the context of all the evidence in the case and based on the parties’ submissions.

Probative value of the documents is not substantially outweighed by their prejudicial effect

11. The bases for exclusion identified by the Defence in paragraphs 19 through 20 of the Response are without merit. The Defence repeats the argument made in another similar response.¹⁹ Therefore, the Prosecution relies on and incorporates by reference its

¹⁵ *Prosecutor v. Taylor*, SCSL-03-01-T-701, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of Certain Intergovernmental Organizations & of Certain Governments”, 5 January 2009 (“**IGO Documents Reply**”).

¹⁶ Response, paras. 4, 16 - 18.

¹⁷ *Prosecutor v. Taylor*, SCSL-03-01-T-680, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents Seized from RUF Office, Kono District”, 1 December 2008 (“**RUF Documents Reply**”).

¹⁸ See, annex A to the Motion and the column marked “relevance”.

¹⁹ See para. 17 of *Prosecutor v. Taylor*, SCSL-03-01-T-677, “Public Defence Response to Prosecution Motion for Admission of Documents Seized from RUF Office, Kono District,” 24 November 2008.

submissions made in reply thereto at paragraph 10.²⁰

Admission under Rule 89(C)

12. As noted in previous submissions, the exclusionary conditions set out in the *Kordić and Čerkez* Decision are legally and factually irrelevant to the matters at issue and should not be applied to the admission of the instant Documents. In relation to the application of this ICTY case to the current proceedings, the Prosecution refers the Chamber to its previous submissions.²¹
13. The Defence contends that “all 20 documents in the NGO Documents were produced and were in the public domain before the case commenced and were available to Prosecution when it presented its case. Therefore they should now be excluded”.²² This argument seems to be premised on the mistaken belief that the Prosecution has finished presenting its case. This patently is not the case.
14. The Defence objection that the documents are not sufficiently significant²³ runs contrary to their arguments at paragraphs 12 through 15 of the Response that the documents are by their very nature “critical and proximate.” Setting aside the inherent inconsistency of the Defence approach, the significance of the Documents is stated in annex A to the Motion. Even assuming, *arguendo*, the evidence is not individually significant, as noted by the Appeal Chamber in the *Fofana* Bail Appeals Decision,²⁴ the fact that isolated items of evidence have “some relevance means that they must be available for counsel to weave into argument and for the Judge to have before him in deciding what to make of the overall factual matrix.”²⁵
15. The Defence also argues that the documents are outside the scope of the Indictment and therefore should be excluded.²⁶ The Prosecution relies upon arguments presented in previous replies to similar motions and reiterates that such evidence is clearly relevant

²⁰ RUF Documents Reply, para. 10.

²¹ See UN Documents Reply, para. 7 and 8 and *Prosecutor v. Taylor*, SCSL-03-01-T-676, “Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents Seized from Foday Sankoh’s House,” 24 November 2008, para. 13, in response to para. 14 of the Response.

²² Response, para 25.

²³ Response, para. 26.

²⁴ *Fofana* Bail Appeals Decision.

²⁵ *Ibid.*, para. 23.

²⁶ Response, para. 16.

- and admissible.²⁷
16. Further, the Defence contends that a number of the documents contain “cumulative” evidence and therefore should be excluded.²⁸ The evidentiary concepts of corroboration and confirmation of evidence rely in part on consistency of evidence from more than one source. In addition, exclusion of evidence is only considered where it is **unduly** cumulative and so risks inappropriately prolonging the trial. This is not a relevant consideration in this instance.
 17. The Defence also argues for exclusion of the documents because the information comes from “anonymous/ hearsay sources, which are incapable of being tested in cross-examination”.²⁹ This Chamber has noted that it “has a discretion under Rule 89(C) to admit any relevant evidence” and “the inability of the Defence to cross-examine such witnesses is a matter that goes to the weight of the evidence, not its admissibility”.³⁰ There is no rule excluding hearsay evidence. Such evidence is clearly relevant and admissible.³¹ The Prosecution relies upon arguments presented in previous replies to similar motions.³²
 18. The Defence reliance on the Decision in *Prosecutor v. Milutinovic* is as misplaced and irrelevant to the issues herein as its reliance on the *Kordić* and *Čerkez* Decision, addressed in paragraph 12 above.³³ The Defence refers to the Trial Chamber’s refusal in *Milutinovic* to admit maps into evidence in circumstances where the Trial Chamber found that “the volume of maps offered” would “only serve to flood the Chamber with repetitive information” and was “cumulative with insufficient probative value”.³⁴ As explained above, the documents cannot be regarded as unduly cumulative and the requirement of probative value is not applicable to the test of admissibility before the SCSL.

²⁷ UN Documents Reply, para. 14; *Prosecutor v. Taylor*, SCSL-03-01-T-696, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Newspaper Articles Obtained from the Catholic Justice And Peace Commission Archive in Monrovia, Liberia,” 12 December 2008 (“**JPC Documents Reply**”), paras. 6, 7.

²⁸ Response, para. 27.

²⁹ Response, para. 28; Response, Annex.

³⁰ *Prosecutor v. Taylor*, SCSL-03-01-T-650, “Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies,” 29 October 2008 (“**UN Documents Motion**”), para 21, Dufka Decision, para 25, in relation to Defence objections regarding the admission of witness testimonies collected by Ms Dufka.

³¹ See UN Documents Motion, para 21.

³² UN Documents Reply, paras. 18,19; JPC Documents Reply, paras. 8, 9.

³³ Response, para 15, referring to *Prosecutor v. Milutinovic* et al, No. IT-05-87-T, Decision on Prosecution Motion to Admit Documentary Evidence, 10 October 2006 (“**Milutinovic**”). The Prosecution observe that the date of this Decision was incorrectly cited in the table of the authorities as the 20 October 2006.

³⁴ Response, para 15 footnote 17 and *Milutinovic*, paragraphs 23 and 24.

III. CONCLUSION

19. For the reasons set out in the Motion and above, the Prosecution requests that the Trial Chamber admit into evidence the Documents identified in Annex A and provided in Annex B of the Motion pursuant to: (i) Rule 89(C); or in the alternative, (ii) Rules 89(C) and 92*bis* (Rule 92*bis* being interpreted as set out in paragraphs 15-16 of the UN Documents Motion³⁵).
20. The Prosecution further requests that the arguments contained in the Response be dismissed.

Filed in The Hague,

12 January 2009

For the Prosecution,


Brenda J. Hollis
Principal Trial Attorney

³⁵ UN Documents Motion.

LIST OF AUTHORITIES

Prosecutor v. Taylor, SCSL-03-01-T

Prosecutor v. Taylor, SCSL-03-01-PT-241, “Prosecution Motion for Admission of Material Pursuant to Rules 92bis and 89C,” 17 May 2007.

Prosecutor v Taylor, SCSL-03-1-T, “Decision on Defence Application to Exclude the Evidence of Proposed Prosecution Expert Witness Corrine Dufka or, in the Alternative, to Limit its Scope and on Urgent Prosecution Request for a Decision”, 19 June 2008.

Prosecutor v. Taylor, SCSL-03-01-T-369, “Decision on Prosecution’s Motion for Admission of Material Pursuant to Rules 89(C) and 92bis,” 7 December 2007.

Prosecutor v. Taylor, SCSL-03-01-T-650, “Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies,” 29 October 2008.

Prosecutor v. Taylor, SCSL-03-01-T-669, “Prosecution Reply to Defence Response to Prosecution Motion for Admission of Extracts of the Report of the Truth and Reconciliation Commission of Sierra Leone,” 17 November 2008.

Prosecutor v. Taylor, SCSL-03-01-T-670, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of the United Nations and United Nations Bodies,” 17 November 2008.

Prosecutor v. Taylor, SCSL-03-01-T-676, “Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents Seized from Foday Sankoh’s House,” 24 November 2008.

Prosecutor v. Taylor, SCSL-03-01-T-677, “Public Defence Response to Prosecution Motion for Admission of Documents Seized from RUF Office, Kono District,” 24 November 2008.

Prosecutor v. Taylor, SCSL-03-01-T-680, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents Seized from RUF Office, Kono District,” 1 December 2008.

Prosecutor v. Taylor, SCSL-03-01-T-695, “Public Defence Response to Prosecution Motion for Admission of Documents of Certain Intergovernmental Organisations & of Certain Governments,” 12 December 2008.

Prosecutor v. Taylor, SCSL-03-01-T-696, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Newspaper Articles Obtained from the Catholic Justice and Peace Commission Archive in Monrovia, Liberia,” 12 December 2008.

Prosecutor v. Taylor, SCSL-03-01-T-695, “Public Defence Response to Prosecution Motion for Admission of Documents of Certain Non-Governmental Organisations and Associated Press Releases”, 5 January 2009.

Prosecutor v. Taylor, SCSL-03-01-T-701, “Public Prosecution Reply to Defence Response to Prosecution Motion for Admission of Documents of Certain Intergovernmental Organizations & of Certain Governments”, 5 January 2009.

***Prosecutor v. Norman et al.*, SCSL 04-14-T**

Prosecutor v. Norman et al., SCSL 04-14-T, “Fofana – Appeal against Decision Refusing Bail,” 11 March 2005.

***Prosecutor v. Sesay et al.*, SCSL-04-15-T**

Prosecutor v. Sesay et al., SCSL-04-15-T-1049, “Decision on Defence Application for the Admission of the Witness Statement of DIS-192 under Rule 92*bis* or, in the alternative, under Rule 92*ter*,” 12 March 2008.

ICTY Cases

Prosecutor v. Kordić and Čerkez, IT-95-14/2, “Decision on Prosecutor’s Submissions concerning “Zagreb Exhibits” and Presidential Transcripts,” 1 December 2000.
<http://www.un.org/icty/kordic/trialc/decision-e/01211AE514285.htm>

Prosecutor v. Milutinovic et al, No. IT-05-87-T, “Decision on Prosecution Motion to Admit Documentary Evidence”, 10 October 2006.

Prosecutor v. Galić, IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92*bis* (C), 7 June 2002.

(Copy provided in previous filing - see Prosecutor v. Taylor, SCSL-03-01-T-510, “Public Prosecution Motion for Admission of Document Pursuant to Rule 89(C)”, 19 May 2008)

ICTR Cases

Prosecutor v. Karemera, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor’s Interlocutory Appeal of Decision on Judicial Notice, Appeals Chamber, 16 June 2006.
<http://69.94.11.53/ENGLISH/cases/Karemera/decisions/160606.htm>

Prosecutor v. Bagosora et al., ICTR-98-41-T, “Decision on Prosecutor’s Motion for the Admission of Written Witness Statements Under Rule 92*bis*,” 9 March 2004.
<http://69.94.11.53/ENGLISH/cases/Bagosora/decisions/040309.htm>

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ANNEX A

ANNEX A

REPLY TO OBJECTIONS RE. ADMISSION OF DOCUMENTS OF CERTAIN NON-GOVERNMENTAL ORGANISATIONS & ASSOCIATED PRESS RELEASES

PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

<u>Title/Description</u>	<u>Defence Objections</u>	<u>Prosecution's Reply</u>
1. Human Rights Watch Report: Sierra Leone Getting Away with Murder, Mutilation, Rape - Part I. Summary.	<ul style="list-style-type: none"> • Not susceptible of Confirmation - apparently related to authorship • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • Defence assertion is incorrect as report authorship is confirmed in the acknowledgments [p.22998 and specifically observed by the Defence in their Annex C]. • Allegations made by victims regarding Liberian assailants cannot be equated to the acts and conduct of the Accused. See para 7 of the Reply. • See para 8 of the Reply.
2. Human Rights Watch Report: Sierra Leone: Getting Away with Murder, Mutilation, Rape - Part III. Background.	<ul style="list-style-type: none"> • Not susceptible of Confirmation – apparently related to authorship • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • Defence assertion is incorrect as report authorship is confirmed in the acknowledgments [p.22998 and specifically observed by the Defence in their Annex C]. • See para 7 of the Reply. • See para 8 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
3.	Human Rights Watch Report: Sierra Leone: Getting away with Murder, Mutilation, Rape - Part IV. Human Rights Abuses Committed by the RUF Rebels.	<ul style="list-style-type: none"> • Not susceptible of Confirmation - apparently related to authorship • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • Defence assertion is incorrect as report authorship is confirmed in the acknowledgments [p.22998 and specifically observed by the Defence in their Annex C]. • Allegations of victim 'Mani' concerning a Liberian commander cannot be equated to the acts and conduct of the Accused. See para 7 of the Reply. • See para 8 of the Reply.

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Title/Description	Defence Objections	Prosecution's Reply
<p>4. Human Rights Watch Report: Sowing Terror, Atrocities against civilians in Sierra Leone, Vol. 10, No.3 (A) - July 1998.</p>	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • See argument incorporated by reference in paragraph 2 of the Reply. • AFRC/RUF/ NPFL violations and allegations by victims that perpetrators spoke with Liberian accents cannot be equated to acts and conduct of the Accused. Further, the mention made of Foday Sankoh and Major Johnny Paul Koroma's [page 23079, footnote 1] positions in the RUF and AFRC respectively and their detention, cannot in any substantive sense be equated to the acts and conduct of the Accused or Foday Sankoh and Johnny Paul Koroma. See para 7 of the Reply. • See para 8 of the Reply.

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PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

	Title/Description	Defence Objections	Prosecution's Reply
5.	Human Rights Watch Publication – "We'll kill you if you cry, Sexual violence in the Sierra Leone Conflict" Vol. 15 No. 1 (A), January 2003	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • See argument incorporated by reference in paragraph 2 of the Reply. • See acknowledgement of acts and conduct of the Accused in annex A to Motion [p. 22976-7] and para 7 of the Reply. However, allegations by victims that perpetrators spoke with Liberian accents cannot be equated to acts and conduct of the Accused. • See para 8 of the Reply.
6.	Amnesty International: "Sierra Leone: Rape and other forms of sexual violence against girls and women" AFR 51/53/00	<ul style="list-style-type: none"> • Irrelevant • Not susceptible of Confirmation 	<ul style="list-style-type: none"> • See Annex A to the Motion [p.22978] and para 10 of the Reply. • See argument incorporated by reference in para 2 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
7.	(MSF) Médecins Sans Frontières, MSF 1998 Report, "Atrocities against civilians in Sierra Leone", 1 May 1998.	<ul style="list-style-type: none"> • Irrelevant • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • See Annex A to the Motion [p.22979] and para 10 of the Reply. • See argument incorporated by reference at para 2 of the Reply. • Document simply notes the command position of Johnny Paul Koroma. This cannot in any substantive sense be equated to the acts and conducts of the Accused or Koroma. See para 7 of the Reply. • See para 8 of the Reply.

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PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

	Title/Description	Defence Objections	Prosecution's Reply
8.	Physicians for Human Rights report, War Related Sexual Violence in Sierra Leone, A Population Based Assessment	<ul style="list-style-type: none"> Irrelevant 	<ul style="list-style-type: none"> See Annex A to the Motion [p.22979] and para 10 of the Reply. Defence assertion that no admission is sought in relation to those parts of the document concerning the methodology of compiling the statistics is incorrect. See Annex B to the Motion [pgs. 23262-23266 "Methods" contained within pgs. 37-61, referred to at p. 22980 of Annex A to the Motion)].
		<ul style="list-style-type: none"> Not susceptible of Confirmation 	<ul style="list-style-type: none"> See argument incorporated by reference in para 2 of the Reply.
		<ul style="list-style-type: none"> Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> Liberian perpetrators cannot be equated to acts and conduct of the Accused. The references at p. 23308 to Foday Sankoh, Superman and Colonel Issa Sesay refer to witnesses statements that assailants sometimes called the names of the leaders of the groups to which they belonged; this does not constitute acts and conduct of the Accused or Foday Sankoh, Superman or Issa Sesay. See para 7 of the Reply.
	<ul style="list-style-type: none"> Critical Element of Pros case 		<ul style="list-style-type: none"> See para 8 of the Reply.

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<u>Title/Description</u>	<u>Defence Objections</u>	<u>Prosecution's Reply</u>
<p>9. Amnesty International Report on Child Soldiers -Sierra Leone: Childhood - a casualty of conflict 31.08.2000</p>	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> • See argument incorporated by reference at para 2 of the Reply. • See Annex A to the Motion [p.22982-4, esp 4] and para 7 of the Reply. As to p.23345 this is not the acts and conduct of the Accused and similarly this cannot be said to be the acts and conduct of Foday Sankoh; the references at p.23349 simply refer to the West Side Boys and cannot be equated to the acts and conduct of the Accused; the references to Liberia at pgs. 23345 and 23346 are used in a geographic sense and cannot be equated to acts and conduct of the Accused. • See para 8 of the Reply.
<p>10. Coalition to Stop the Use of Child Soldiers: Child Soldiers Global Report 2001</p>	<ul style="list-style-type: none"> • Critical Element of Pros case • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • See para 7 of the Reply. No information on p.23394 which refers to Johnny Paul Koroma and West Side Boys. • See para 8 of the Reply.

ANNEX A

REPLY TO OBJECTIONS RE. ADMISSION OF DOCUMENTS OF CERTAIN NON-GOVERNMENTAL ORGANISATIONS & ASSOCIATED PRESS RELEASES

PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

	Title/Description	Defence Objections	Prosecution's Reply
11.	Associated Press release : U.S.-based groups urges United Nations to extend sanction against Liberia 02.05.2002	<ul style="list-style-type: none"> • Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> • See para 7 of the Reply.
12.	Associated Press release : U.S.-based groups urges United Nations to extend sanction against Liberia 19.07.2002	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> • See argument incorporated by reference at para 2 of the Reply. • Prosecution accepts that the reference to the Informaiton Minsiter Reginald Goodridge as noted but not underlined in Annex A to the Reply can go to acts and conduct of the Accused but see para 7. • Would appear from explanation that Defence also object to this document on the basis that is Critical Element of Pros case. See para 8 of the Reply.

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PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

Title/Description	Defence Objections	Prosecution's Reply
13. News article from Agence France- Presse: Liberia denies human rights abuses 20.07.2002	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> • See argument incorporated by reference at para 2 of the Reply. • See para 7 of the Reply. • Would appear from explanation that Defence also object to this document on the basis that it is a Critical Element of Pros case. See para 8 of the Reply.
14. Human Rights Watch Press Release: Deteriorating Human Rights Situation in Liberia 19.07.2002	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • See argument incorporated by reference at para 2 of the Reply. • See para 7 of the Reply. • See para 8 of the Reply.
15. Amnesty International: Towards a future founded on human rights (AI Index: AFR 51/05/1996) September 1996	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> • See argument incorporated by reference at para 2 of the Reply. • See para 7 of the Reply.

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PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

	Title/Description	Defence Objections	Prosecution's Reply
16.	Amnesty International: Liberia: Hassan Bility Incommunicado detention without charge 28.10.2002	<ul style="list-style-type: none"> • Irrelevant • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates 	<ul style="list-style-type: none"> • See Annex A to the Motion [pgs.22990-1] and para 10 of the Reply. • See argument incorporated by reference at para 2 of the Reply. • See para 7 of the Reply.
17.	Amnesty International: "Fear for safety / Fear of torture or ill-treatment / incommunicado detention / health concern" 28.10.2002	<ul style="list-style-type: none"> • Irrelevant • Not susceptible of Confirmation 	<ul style="list-style-type: none"> • See Annex A to the Motion [p.22991] and para 10 of the Reply. • See argument incorporated by reference at para 2 of the Reply.
18.	Women Waging Peace and The Policy Commission, "From Combat to Community: Women and Girls of Sierra Leone".	<ul style="list-style-type: none"> • Not susceptible of Confirmation • Acts/Conduct of Accused, Subordinates • Critical Element of Pros case 	<ul style="list-style-type: none"> • Defence assertion is incorrect as report authorship is confirmed in the acknowledgments [p.23471 and specifically observed by the Defence in their Annex C]. • See para 7 of the Reply. • See para 8 of the Reply.

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RELEASES

PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis

	Title/Description	Defence Objections	Prosecution's Reply
19.	Updated No. 36/2000 on ICRC activities in West Africa: Sierra Leone – Guiana – Liberia 15.12.2000	<ul style="list-style-type: none">• Critical Element of Pros case	<ul style="list-style-type: none">• See para 8 of the Reply.
20.	Amnesty International: Liberia Action Must be Taken Now to Protect Lives of Civilians Threatened by Armed Conflict (AFR 34/01/96) 04.12.1996	<ul style="list-style-type: none">• Irrelevant• Not susceptible of Confirmation	<ul style="list-style-type: none">• See Annex to the Motion [p.22994] and para 10 of the Reply.• See para 2 of the Reply.

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ANNEX B

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REPLY TO OBJECTIONS RE. ADMISSION OF DOCUMENTS OF CERTAIN NON-GOVERNMENTAL ORGANISATIONS & ASSOCIATED PRESS RELEASES
PURSUANT TO RULE 89(C) OR, IN THE ALTERNATIVE, RULES 89(C) & 92bis.

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	Title/Description	Defence Objections	Prosecution's Reply
1.	Human Rights Watch Report: Sierra Leone Getting Away with Murder, Mutilation, Rape - Part I. Summary.	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9 & 15 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
2.	Human Rights Watch Report: Sierra Leone: Getting Away with Murder, Mutilation, Rape - Part III. Background.	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
3.	Human Rights Watch Report: Sierra Leone: Getting away with Murder, Mutilation, Rape - Part IV. Human Rights Abuses Committed by the RUF Rebels.	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence & outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 17 & 19 the Reply. • See para 18 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
4.	Human Rights Watch Report: Sowing Terror, Atrocities against civilians in Sierra Leone, Vol. 10, No.3 (A) - July 1998.	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9 & 15 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
5.	Human Rights Watch Publication – “We’ll kill you if you cry, Sexual violence in the Sierra Leone Conflict” Vol. 15 No. 1 (A), January 2003	<ul style="list-style-type: none"> • Already Produced/admitted • Not sufficiently significant (relates to crime-based evidence & outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • In its Decision on Motion 241, the Trial Chamber dismissed the motion without prejudice to future filings on the same issue¹ • See para 9, 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.

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¹ *Prosecutor v Taylor*, SCSL-03-01-T-369, “Decision on Prosecution’s Motion for Admission of Material Pursuant to Rules 89(C) and 92bis”, 7 December 2007.
Prosecutor v Taylor, SCSL-03-01-T

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Title/Description	Defence Objections	Prosecution's Reply
6. Amnesty International: "Sierra Leone: Rape and other forms of sexual violence against girls and women" AFR 51/53/00	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence & outside the scope of the Indictment) • Cumulative • Anonymous / hearsay • Other 	<ul style="list-style-type: none"> • See para 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply. • See para 17 & 19 of the Reply.
7. (MSF) Médecins Sans Frontières, MSF 1998 Report, "Atrocities against civilians in Sierra Leone", 1 May 1998.	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9 & 15 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
8.	Physicians for Human Rights report, War Related Sexual Violence in Sierra Leone, A Population Based Assessment	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9 & 15 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
9.	Amnesty International Report on Child Soldiers -Sierra Leone: Childhood - a casualty of conflict 31.08.2000	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence & some aspects outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
10.	Coalition to Stop the Use of Child Soldiers: Child Soldiers Global Report 2001	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence & some aspects outside the scope of the Indictment) • Cumulative • Anonymous / hearsay • Other 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply. • See para 17 & 19 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
11.	Associated Press release : U.S.-based groups urges United Nations to extend sanction against Liberia 02.05.2002	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
12.	Associated Press release : U.S.-based groups urges United Nations to extend sanction against Liberia 19.07.2002	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply (Defence objects on the basis that is Critical Element of Pros case – objection box is not ticked in Annex A of the Response) • See para 17 & 19 of the Reply. • See para 18 of the Reply.
13.	News article from Agence France-Press: Liberia denies human rights abuses 20.07.2002	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
14.	Human Rights Watch Press Release: Deteriorating Human Rights Situation in Liberia 19.07.2002	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Anonymous / hearsay • Other 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 18 of the Reply. • See para 17 & 19 of the Reply.
15.	Amnesty International: Towards a future founded on human rights (AI Index: AFR 51/05/1996) September 1996	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence & outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
16.	Amnesty International: Liberia: Hassan Bility Incommunicado detention without charge 28.10.2002	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 15 & 16 of the Reply. • See para 18 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
17.	Amnesty International: "Fear for safety / Fear of torture or ill-treatment / incommunicado detention / health concern" 28.10.2002	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Anonymous / hearsay • Other 	<ul style="list-style-type: none"> • See para 15 & 16 of the Reply. • See para 18 of the Reply. • See para 7 of the Reply.
18.	Women Waging Peace and The Policy Commission, "From Combat to Community: Women and Girls of Sierra Leone".	<ul style="list-style-type: none"> • Not sufficiently significant (relates to crime-based evidence & some aspects outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.
19.	Updated No. 36/2000 on ICRC activities in West Africa: Sierra Leone – Guiena – Liberia 15.12.2000	<ul style="list-style-type: none"> • Not sufficiently significant (outside the scope of the Indictment) • Cumulative • Anonymous / hearsay 	<ul style="list-style-type: none"> • See para 9, 15 & 16 of the Reply. • See para 17 & 19 of the Reply. • See para 18 of the Reply.

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	Title/Description	Defence Objections	Prosecution's Reply
20.	Amnesty International: Liberia Action Must be Taken Now to Protect Lives of Civilians Threatened by Armed Conflict (AFR 34/01/96) 04.12.1996	<ul style="list-style-type: none">• Not sufficiently significant (outside the scope of the Indictment)• Cumulative• Anonymous / hearsay	<ul style="list-style-type: none">• See para 15 & 16 of the Reply.• See para 17 & 19 of the Reply.• See para 18 of the Reply.

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ANNEX C

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EXPERT EVIDENCE – ANALYSIS OF DOCUMENTS

	Title/Description	Defence Objections	Prosecution's Reply
1 to 3	Human Rights Watch Report: Sierra Leone Getting Away with Murder, Mutilation, Rape	<ul style="list-style-type: none"> • Technical Nature • Specific knowledge in a specific field • Usurping role of the Judge 	<ul style="list-style-type: none"> • See paragraph 6 of the Reply. • See paragraph 6 of the Reply. • See paragraph 6 of the Reply.
4.	Human Rights Watch Report: Sowing Terror, Atrocities against civilians in Sierra Leone, Vol. 10, No.3 (A) - July 1998.	<ul style="list-style-type: none"> • Technical Nature • Specific knowledge in a specific field • Usurping role of the Judge 	<ul style="list-style-type: none"> • See paragraph 6 of the Reply. • See paragraph 6 of the Reply. • See paragraph 6 of the Reply.
5.	Human Rights Watch Publication – “We’ll kill you if you cry, Sexual violence in the Sierra Leone Conflict” Vol. 15 No. 1 (A), January 2003	<ul style="list-style-type: none"> • Specific knowledge in a specific field 	<ul style="list-style-type: none"> • See paragraph 6 of the Reply.
8.	Physicians for Human Rights report, War Related Sexual Violence in Sierra Leone, A Population Based Assessment	<ul style="list-style-type: none"> • Technical Nature • Specific knowledge in a specific field • Usurping role of the Judge 	<ul style="list-style-type: none"> • See paragraph 6 of the Reply. • See paragraph 6 of the Reply. • See paragraph 6 of the Reply.

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EXPERT EVIDENCE – ANALYSIS OF DOCUMENTS

	Title/Description	Defence Objections	Prosecution's Reply
18.	Women Waging Peace and The Policy Commission, "From Combat to Community: Women and Girls of Sierra Leone".	<ul style="list-style-type: none">• Technical Nature• Specific knowledge in a specific field• Usurping role of the Judge	<ul style="list-style-type: none">• See paragraph 6 of the Reply.• See paragraph 6 of the Reply.• See paragraph 6 of the Reply.

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