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REQUEST AAB 002 / SUBMITTED ON 10 OCTOBER 2003

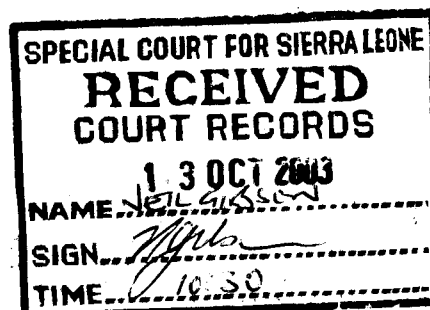
BY THE TRUTH AND RECONCILIATION COMMISSION FOR SIERRA LEONE
TO CONDUCT A PUBLIC HEARING WITH **MR. AUGUSTINE ATO BAO**
IN TERMS OF THE SPECIAL COURT FOR SIERRA LEONE PRACTICE DIRECTION
ADOPTED ON 9 SEPTEMBER 2003, AS AMENDED ON 4 OCTOBER 2003

INTRODUCTION

1. The Truth & Reconciliation Commission for Sierra Leone ("TRC" or "the Commission") hereby makes request to the Special Court for Sierra Leone ("Special Court") to conduct a public hearing with Mr. Augustine Ato Bao, currently held as an awaiting trial prisoner at the detention facility of the Special Court.

DETAILS OF REQUESTING AUTHORITY

2. The Requesting Authority is the Truth and Reconciliation Commission for Sierra Leone. The TRC was established against the background of years of conflict and bloodshed in Sierra Leone which ultimately led to the signing of the Lomé Peace Accord on 7 July 1999. The signatories to the Lomé Peace Accord provided for the establishment of a Truth and Reconciliation Commission in Article XXVI in order to:



- 2.1. address impunity,
 - 2.2. break the cycle of violence,
 - 2.3. provide a forum for both the victims and perpetrators of human rights violations to tell their story,
 - 2.4. obtain a clear picture of the past in order to facilitate genuine healing and reconciliation.
3. The Lomé Peace Accord required that the Commission shall, in the spirit of national reconciliation, deal with the question of human rights violations since the beginning of the Sierra Leonean conflict in 1991.
4. The Commission was created by virtue of the Truth and Reconciliation Commission Act of 2000. In terms of the Act the object of the Commission, contained at Section 6, subsection (1), is:
- “to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the Conflict in 1991 to the signing of the Lome Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered.”
5. The functions of the Commission, contained at Section 6, subsections (2)(a), (b) and (c) of the Act, are:

“to investigate and report on the causes, nature and extent of the violations and abuses referred to in subsection (1) to the fullest degree possible, including their antecedents, the context in which the violations and abuses occurred, the question of, whether those violations and abuses were the result of deliberate planning, policy or authorisation by any government, group or individual, and the role of both internal and external factors in the conflict;

to work to help restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict; and

to do all such things as may contribute to the fulfilment of the object of the Commission.”

6. The Commission is empowered to determine its own operating procedures and mode of work, which include, at Section 7, subsections (1)(a),(b) and (c) of the Act, the following three components :-

undertaking investigation and research into key events, causes, patterns of abuse or violation and the parties responsible;

holding sessions, some of which may be public, to hear from the victims and perpetrators of any abuses or violations of from other interested parties; and

taking individual statements and gathering additional information with regard to the matters referred to in paragraphs (a) or (b).

THE PURPOSE OF THE PRESENT REQUEST (REQUEST AAB 002)

7. The purpose of the present request is to facilitate the object and functions of the Commission contained in Sections 6 and 7 of the Act, as cited in paragraphs 4, 5 and 6 above.
8. The TRC perceives Mr. Augustine Ato Bao to have played a key role in the conflict in Sierra Leone. The Commission's report – insofar as it purports to present an impartial historical record – would greatly benefit from hearing from Mr. Bao the particular details of his role in the conflict and his insights and views into its causes, course and character.
9. On 16 September 2003 Mr. Bao stated in a letter to the TRC that he wishes to appear before the Commission in order to give testimony pertaining to the conflict in Sierra Leone. Since Mr. Bao's letter, the TRC has sought to arrange such testimony under conditions satisfactory to all parties.

DESCRIPTION OF OFFENCES TO BE CHARGED OR INVESTIGATED

10. This requirement is not of application to the present request since the TRC is not a law enforcement agency and consequently neither prefers charges nor investigates offences.

RELEVANT DATES OR GROUNDS FOR SPECIAL URGENCY

11. The Commission is operating under considerable time pressures. Section 5(1) of the Act provides for the operation of the TRC for a period of one year. The period of one year expired on 4 October 2003, although agreement has been secured from the President of Sierra Leone to extend the period by virtue of the aforesaid section until the end of December 2003.

12. Funding for the TRC is provided only until the end of December 2003. In practice this means that the report of the Commission must be finalised and sent to the printers during November. This in turn means that the report itself should be completed towards the end of October or early November. All interviews and hearings should thus be concluded without delay.

13. Every day that passes without the commencement of interviews or hearings with the detainees held by the Special Court constitutes a potential denial of their rights under the Act. Moreover, any further delay in resolving this matter

will severely undermine the ability of the TRC to complete its mandate under the Act.

14. In the circumstances the TRC has outlined a clear case to have this request expedited with the utmost urgency. The Commission requests respectfully that the Special Court make the necessary arrangements to hold a hearing with Mr. Augustine Ato Bao on Wednesday 29 October 2003. This date has been agreed upon with legal counsel representing Mr. Bao. It is a day on which the lead counsel representing Mr. Bao will be present in Freetown.

DETAILS OF ANY CAUTION

15. Mr. Bao will be required to take an oath prior to making any statement before a hearing of the TRC and such an oath will be administered by a Commissioner of the TRC.

16. The TRC will respect Mr. Bao's right to a fair trial and the hearing will be conducted in a manner that does not in any way undermine this right. Accordingly, his right to silence and his right not to incriminate himself will be respected at all times. He will be advised of these rights by the Chairperson of the hearing before the hearing commences. The TRC is in close liaison with Mr. Bao's legal counsel. In consultation and agreement with his legal representatives the Commission will determine in advance the scope of the

hearing and the ambit of the questions that will follow his initial statement to the Commission. Mr. Bao's legal team will be at his side throughout the hearing and will be permitted to intervene at any time on their client's behalf.

LIST OF SUBJECT AREAS ABOUT WHICH QUESTIONS ARE TO BE ASKED

17. Pursuant to the wide-ranging personal narrative that Mr. Bao ("the witness") will provide in his initial oral statement before the Commission, questions may be asked for clarification of any subject areas the witness himself has broached. Thereafter, the following subject areas will be probed (unless already covered in sufficient depth in Mr. Bao's oral presentation):

- 17.1. Mr. Bao's educational and professional background, the areas of the country from which his family hails and the places (inside and outside of Sierra Leone) where he has lived, his perspective on the system of Government in Sierra Leone under the APC and his experiences of the civil conflict that broke out in neighbouring Liberia in December 1989.
- 17.2. A thorough description of Mr. Bao's first encounters with others who subsequently fought in the Sierra Leonean conflict; focussed primarily on, but not restricted to, those who fought as members of the Revolutionary United Front / Sierra Leone (RUF/SL) and those who were affiliated to the National Patriotic Front of Liberia (NPFL).

Questions on this subject area will address encounters that took place both inside and outside of Sierra Leone as appropriate.

- 17.3. A comprehensive description of Mr. Bao's activities in the year 1990, including any job(s) he held, any encounters he had with security forces, either state or non-state, any knowledge he had of the intervention of ECOMOG into the Liberian conflict and any consequences of that intervention he perceived for those holding the nationality of any of the troop-contributing countries.
- 17.4. The means by which Mr. Bao became a member of the RUF/SL, including: the identities and perceived roles of those who recruited him and those whom he joined; his personal understanding of the origins, antecedents and leadership of the RUF/SL; and his reasons for joining the RUF/SL (to cover any personal motivations as well as any degree of compulsion).
- 17.5. A comprehensive explanation of the mode, manner and duration of training undertaken by Mr. Bao before and during his membership of the RUF/SL; this subject area should include all types of physical, ideological and guerrilla training undertaken, as well as all possible perspectives on those who conducted the training and Mr. Bao's fellow trainees.

- 17.6. Mr. Bao's insights into the initial incursions made by fighting forces into Sierra Leonean territory from Liberia in the months of March and April 1991, including his understanding of the composition of such forces, the immediate and longer-term objectives of such incursions, the commandship and overarching leadership of such incursions, the perceived impact of such incursions, and Mr. Bao's own participation in such incursions as appropriate.
- 17.7. An exhaustive account of the activities of the RUF/SL and any of its allies, as appropriate, on the territory of Sierra Leone from the year 1991 until the year 1993 inclusive. In particular, questions would seek to address Mr. Bao's own activities in the advancement of any agenda pursued by the RUF/SL; moreover, any involvement of non-Sierra Leoneans in the movement at that time would be explored in depth.
- 17.8. Comprehensive descriptions, both from first-hand experiences and from wider trends in the movement, of any known incidents of acrimony between different members of the RUF/SL, or between members of the RUF/SL and members of its allies. In particular, insights into the reasons for such acrimony; any particular incident(s) or decision(s) from which it arose (either directly or

indirectly); how exactly such acrimony manifested itself, particularly where it led to violence, sanction or other consequence against either of the parties; how it was resolved, if at all, and by whom; any direct involvement of Mr. Bao in such acrimony, confrontation with other members of RUF/SL or its allies, or in the resolution of incidents involving others.

- 17.9. Thorough narratives of armed encounters between the RUF/SL and any of its military adversaries during the entire duration of the conflict in Sierra Leone; to include encounters in both offensive and defensive capacities, with both conventional and unconventional opposing fighting factions of any nationality, both within and outside the territory of Sierra Leone. Mr. Bao's assessment of such armed encounters will be sought, including his explanation of perceived 'victories' and 'defeats' experienced by the RUF/SL.
- 17.10. Questions will be asked to gain Mr. Bao's impressions on all of the following elements of the RUF/SL's operations and organisation. The overarching subject area should be understood as examining the composition, character and conduct of the RUF/SL:
 - 17.10.1. Objectives, Means and Impact of Recruitment, including forced recruitment, into the RUF/SL;

- 17.10.2. Mode, manner and duration of all types of training administered;
- 17.10.3. Leadership and Command Responsibility;
- 17.10.4. Codes of Conduct / Internal Discipline / Means of Enforcement;
- 17.10.5. Geographical Spread / Strategically-Important Locations including bases;
- 17.10.6. Unity / Loyalty (or lack of these) among the rank and file, including variations among different units;
- 17.10.7. How the RUF/SL armed themselves and with what types of weaponry;
- 17.10.8. Any and all directives issued on military or other 'operations', including the means and manner of issuance;
- 17.10.9. Organisational structure and the respective roles played by each and every member of the organisational hierarchy;
- 17.10.10. Any ideological teachings disseminated among members of the RUF/SL, including revolutionary teachings;
- 17.10.11. The extent to which ideological teachings were able to be absorbed by or adhered to by the rank and file of the RUF/SL;
- 17.10.12. Perspectives on the demographic dynamics of the membership of the RUF/SL - i.e. educational standards, places of origin, ethnicities, ages, sex, etc;

- 17.10.13. The roles played by women in the organisation and operations of the RUF/SL, particularly insofar as the roles of women differed from those of men;
- 17.10.14. The roles of children in the organisation and operations of the RUF/SL, particularly insofar as the roles of children differed from those of adults;
- 17.10.15. Perspectives on the involvement of youth in the organisation and operations of the RUF/SL;
- 17.10.16. The use of drugs and related substances in the RUF/SL, both recreationally and through forced administering;
- 17.10.17. The practice of sexual intercourse by and among members of the RUF/SL, including perspectives on sexual relationships pursued on bush bases, abduction of women and girls for the purposes of sexual intercourse, and acts of gender-based violence against women and girls, including rape and sexual slavery;
- 17.10.18. The means by which members of the RUF/SL communicated with each other, and / or monitored the communications of their adversaries;
- 17.10.19. The practice of any policies pertaining to acquisition of 'resources', including looting, seizure, ambush, abduction and the hostage-taking of individuals or groups;

- 17.10.20. Perceived areas of weakness in the organisation or operations of the RUF/SL.
- 17.11. A comprehensive historical account of the activities of the RUF/SL from 1993 until 2002 inclusive from the perspective of Mr. Bao, particularly drawing upon the command roles he held in the movement. This account will be stimulated by questions but will also allow for the views and perspectives of Mr. Bao himself.
- 17.12. A comprehensive discussion of Mr. Bao's myriad perspectives on: insurgency; counter-insurgency; 'revolution'; conventional warfare; guerrilla tactics; 'sobels'; military capacities; treatment of civilians; and struggles for political power. All of the aforementioned will be discussed with specific regard to Mr. Bao's first-hand experiences during the conflict in Sierra Leone.
- 17.13. A full account of the RUF/SL's dealings in diamonds and other mineral resources, including Mr. Bao's perspectives on:
- 17.13.1. Periods during which the RUF/SL mined diamonds on a large scale, where and through what means;
- 17.13.2. The destinations and individual or group recipients to whom diamonds were exported and through what means;

- 17.13.3. An approximation of the total sums of money earned by the RUF/SL from its dealings in diamonds and perspectives on the uses to which these proceeds were put;
- 17.13.4. All possible perspectives on the organisation and conduct of mining operations under the RUF/SL, including the composition of the labour force, types of monitoring and security put in place and systems of recording used;
- 17.13.5. The identities and, where relevant, factional affiliations of any persons or groups to whom the RUF/SL sold diamonds during the period of the conflict, and of any persons to whom diamonds were sold during the period of the conflict by any other group of which Mr. Bao has knowledge. In particular, questions will seek information about any sales of diamonds to any national or international organisations, or elements of such organisations, or to any members of other combatant factions involved in the conflict, e.g. ECOMOG, SLA, CDF, Guinean Armed Forces or mercenaries.
- 17.13.6. Whether the RUF/SL ever benefited from the seizure, acquisition, theft, mining, trading and / or selling of mineral resources other than diamonds (for instance, gold, bauxite or rutile) during the conflict in Sierra Leone.

- 17.14. Mr. Bao's experiences of, perspectives on and insights into violations and abuses of human rights and international humanitarian law since the beginning of the conflict in 1991.
- 17.15. Lessons learned from the eleven-year conflict in Sierra Leone.
- 17.16. Recommendations Mr. Bao may wish to make in the interests of promoting peace, unity and reconciliation in Sierra Leone, including his vision for a future Sierra Leone.

DESCRIPTION OF PERSONS TO BE PRESENT AND FACILITIES REQUIRED

18. The TRC is mindful of the fact that it is not possible to offer Mr. Bao a public hearing of the manner typically held by the Commission. However, within the constraints of the available facilities at the Special Court, the TRC would suggest that the court house on site at the Special Court compound be used for the public hearing. We understand that this court house can accommodate approximately 30 persons.
19. The hearing will be presided over by five Commissioners (possibly six) who will be supported by the Head of Information Management, the Head of Investigations and two researchers. Mr. Bao will be accompanied by his legal team.

20. Selected representatives of the public will be in attendance. We would suggest the following persons:

- 20.1. Accredited journalists from the largest circulating local newspapers;
- 20.2. An accredited journalist each from SLBS Public Radio and Radio UNAMSIL together with technical support staff;
- 20.3. One accredited journalist from SLBS-TV with technical support staff;
- 20.4. One representative each from UNAMSIL's Human Rights and Political Affairs Sections;
- 20.5. Observers from the Special Court;
- 20.6. Members of the Bao family, if space permits.

21. The TRC's public hearings are normally broadcast live. We accordingly request that two telephone line connections be made available to enable SLBS and UNAMSIL Radio to broadcast the hearing.

22. In terms of facilities the TRC will supply its own transcribing and video equipment and support staff who will manage the recording. The TRC will also employ a photographer for the purpose of taking still photographs of the hearing.

23. With regard to the time required to conduct this public hearing the Commission requests that two full days be reserved. It is envisaged that the first session on the first designated day will commence at 10.00 am and conclude by 5.00 pm including breaks for lunch and tea.

Submitted by:


Franklyn Bai Kargbo
Executive Secretary
Truth & Reconciliation Commission for Sierra Leone