



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;

MINDFUL of the Trial Chamber Order of the 22<sup>nd</sup> of June 2008 that the Defence for Gbao and Sesay file the final version of their military expert report not later than Monday the 26<sup>th</sup> of May 2008 at 4:00pm;

NOTING that Defence for Gbao and Sesay filed the aforesaid expert report of Johan Hederstedt, on the 26<sup>th</sup> of May 2008;

NOTING the Prosecution Notice on the 9<sup>th</sup> of June 2008 that it does not accept the statement of the expert and wishes to cross examine the said expert;

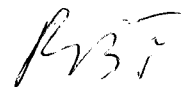
NOTING the Kallon Defence Notice on the 11<sup>th</sup> of June 2008 that it wishes to cross examine the expert witness;

MINDFUL of the 17<sup>th</sup> of June 2008 Order of the Chamber that the Defence for Gbao and Sesay should provide the Trial Chamber and the other Parties by 4.00 p.m. on Thursday, 19 June 2008, with the curriculum vitae of the expert witness, which includes his credentials qualifying him as an expert and his specific field of expertise;

NOTING that the Defence for Gbao and Sesay did file the said curriculum vitae of the expert on the 19<sup>th</sup> of June 2008;

NOTING that the Chamber has to decide first whether the witness has the necessary qualifications to be accepted as an expert, before determining whether his or her evidence is admissible as expert evidence";<sup>1</sup>

NOTING further that the Chamber had previously ruled that "the party calling the expert witness should satisfy the Trial Chamber that the expert witness has at his or her disposal the special



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<sup>1</sup> Decision on Fofana Submissions Regarding Proposed Expert Witness Daniel J. Hoffman Phd., 7 July 2006.

knowledge, experience, or skills needed to potentially assist the Trial Chamber in its understanding or determination of issues in dispute”;<sup>2</sup>

NOTING that the admission of expert evidence is a preliminary matter and must be distinguished from the Chamber’s eventual assessment of the weight and probative value of the evidence;<sup>3</sup>

NOTING that Rule 94*bis* of the Rules of Procedure and Evidence specifically governs the issue of expert witness testimony;

NOTING that the said Rule 94 *bis* does not provide a definition of an expert witness;

MINDFUL of the Chamber adoption in a previous Decision of the definition of an “expert” as put forward in the ICTY Decision in the case of *Prosecutor v. Galic*;<sup>4</sup>

NOTING that the object of the testimony of an expert witness, is to enlighten the Judges on specific issues of a technical nature, requiring special knowledge in a specific field;<sup>5</sup>

MINDFUL of the Chamber previous applicable criteria for the evaluation of an expert witness’s *prima facie* qualification as an expert;

RECALLING that this Chamber has previously held that such a preliminary finding can be made on the basis of the material before the Chamber and that the determination can be made on the basis of the witness’s credentials and experience as outlined in his or her curriculum vitae;<sup>6</sup>

NOTING that this Chamber, consistent with the applicable jurisprudence, has carefully reviewed the curriculum vitae of expert witness Johan Hederstedt;

CONSIDERING the professional and practical experience and expertise in general, as contained in paragraph 3 of the aforesaid curriculum vitae filed on the 19 June 2008;

<sup>2</sup> *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL-04-15-T, Decision on the Confidential Prosecution Notice Under Rule 92bis to Admit the Transcripts of Testimony of TF1-369, 23 May 2006. Please note that this Decision has been filed confidentially.

<sup>3</sup> *ibid.*

<sup>4</sup> *Prosecutor v. Galic*, IT-98-29-T, Decision Concerning the Expert Witnesses Ewa Tabeau and Richard Philipps, 3 July 2002, p.2. See also *Prosecutor v. Ndayambaje, Kanyabashi, Nyiramasuhuko, Ntahobali, Nsabimana and Nteziryayo*, Case No. ICTR-98-42-T, Oral Decision on the Qualification of Mr. Edmond Babin as Defence Expert Witness, 13 April 2005, para. 5.

<sup>5</sup> *Prosecutor v Akayesu*, ICTR-96-4-T, Decision on a Defence Motion for the Appearance of an Accused as an Expert Witness, 9 March 1998; see also Richard May and Marieke Wierda, *International Criminal Evidence: Transnational 2002*, (“*May and Wierda*”), p. 202, para. 6.88.

<sup>6</sup> *Prosecutor v. Norman, Fofana and Kondewa*, Case No. SCSL-04-14-T, Decision on Fofana Submissions Regarding Proposed Expert Witness Daniel J. Hoffman Phd., 7 July 2006.

BASED ON THE AFOREMENTIONED

PURSUANT to Rule 54 and 94bis of the Rules

THIS TRIAL CHAMBER HEREBY

ACCEPTS the Witness as a generalist Military Expert in the field of Guerrilla Warfare and the issue of Command and Control in Guerrilla Organisation.

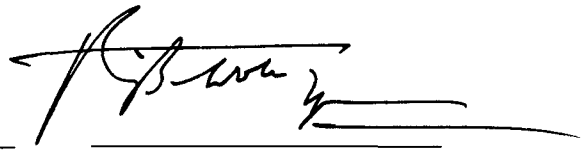
Done at Freetown, Sierra Leone, this 23<sup>rd</sup> day of June 2008



Hon. Justice Pierre Boutet



Hon. Justice Benjamin Mutanga Itoe  
Presiding Judge  
Trial Chamber I



Hon. Justice Bankole Thompson

